

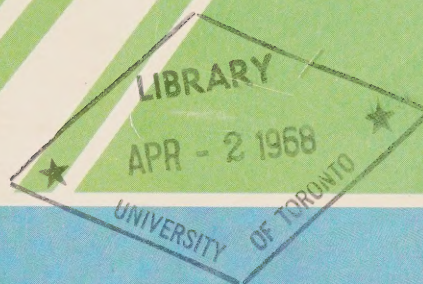
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CHOOSING A PATH

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Can Indian affairs be
Cultural Revolution



A DISCUSSION HANDBOOK FOR THE INDIAN PEOPLE
DEPARTMENT OF INDIAN AFFAIRS AND NORTHERN DEVELOPMENT

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CHOOSING A PATH

A DISCUSSION HANDBOOK FOR THE INDIAN PEOPLE

Canada

INDIAN AFFAIRS BRANCH
DEPARTMENT OF INDIAN AFFAIRS
AND NORTHERN DEVELOPMENT

General publications]

CONSULTATION

The Indians must be consulted about what is to be done and what is being done if they are to look after their own community affairs and have a full and equal place in Canadian society. Indian people must be encouraged to become more and more involved in the administration of their affairs as well as with the public business of the Canadian community. This is part of equality.

This book is part of the consultation process. It explains some of the questions which must be resolved in preparing a new Act and it is intended to help individual Indians, families and communities to define their views. Some of the questions asked are difficult, some are easy, all are important.

Each Band is asked to appoint someone to speak for its members at a meeting with representatives from Ottawa. These spokesmen will be heard and should be ready to speak for their people. When the government has reviewed all the representations made by the Indian people, a Bill will be prepared for Parliament to consider. Parliament will decide what the law will be.

After the Bill has been presented to Parliament, a copy will be sent to each of the Band spokesmen

and to Band Councillors. The Minister has said that he will ask Parliament to refer the Bill to a Committee of Members of Parliament. It will be up to the committee to decide what further views it may wish to hear before it makes its report.

The process of consultation is designed to give the Indian people a voice. This voice will be heard, not individually, but through the spokesmen. The representations will be carefully considered in preparing the new Act.

This handbook is prepared to help individual Indians and Indian families to take part in the consultation procedure. It is intended as a guide to the major topics covered by the Indian Act.

The matters raised will be discussed with the spokesmen appointed by the Bands but the questions are not intended to limit the consultation in any way.

They have been discussed in principle with the National Indian Advisory Board. A substantial agreement on them was reached. Now we want *your* opinions.

CHOOSING A PATH

1	INTRODUCTION BY THE MINISTER	1
2	STATEMENT OF OBJECTIVES	5
3	AN OUTLINE OF THE PROPOSED ACT	11
4	AN ABSTRACT OF THE QUESTIONS RAISED IN PART 3	19

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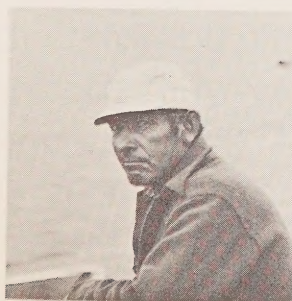
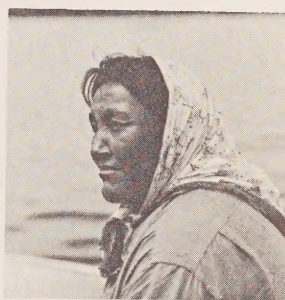
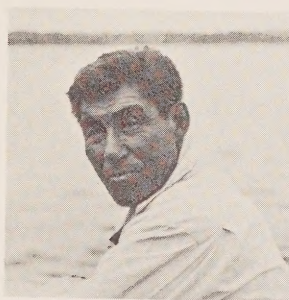
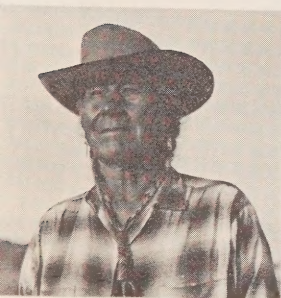
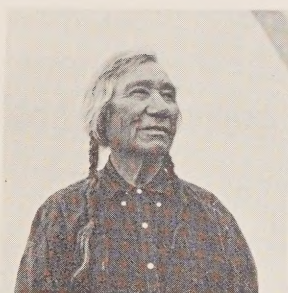
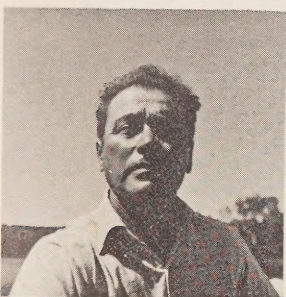
Ottawa, Canada

1968



Part 1

INTRODUCTION
BY THE MINISTER



It is my hope that the new Act will help to offer the Indian people more opportunities to manage their own affairs. By itself the Act will not solve the problems of the Indian community. If the passage of laws could do that there would be no problem. *The solution lies mainly with you — each one of you.*

The new Act has to take into account the wishes of the Indian people. This book has been published to help you to prepare your answers to the questions which Members of Parliament will have to consider when the time comes for them to make the new law.

In it you will find an outline of the things the law must deal with. There are many ways of deciding on some of them, on others there may only be a few choices. Some are hard to decide, some are easy. The Act which Parliament will pass will depend to a great extent on what you believe are the best answers to the questions you are asked.

I believe that you can achieve most of the things you want. *Many* of these things you can *only* achieve for yourselves, some will require help from the government. The new Act will not set out the ways in which the government will help you. What it will do is to say who is an Indian and who is not, and set some of the rules under which individual Indians, the Band Councils and the government itself must work on the things they do together on reserves.

I know you will give your care and attention to the

questions raised here. I hope you will tell us openly and frankly what you think is best for the Indian people.

The Act itself, like all federal laws will be made by Parliament but the Members of Parliament will be told what you have suggested you want in the Act.

The government wants to make it possible for you to live your lives and conduct your own affairs as freely as other Canadians. The government wants the Indian people to have full equality of opportunity with other Canadians in every way.

This equality must include the right to choose a way of life which recognizes the Indian values and also the right to enter into the mainstream of Canadian life, or to do both where it is possible to do so. In entering fully into Canadian life, some Indians may find they have to adjust some of their views to match the needs of today's technology. Those who want the benefits of modern life, as many have shown they do, will have to accept some of the attitudes which make those benefits possible. As Indians, you must be able to select freely and of your own will which path you wish to follow; you must be free to make your own choice of how you will fit your views into the world around you.

Choices can only be made freely when all choices are truly open. If Indians are to be free to choose, education will be needed to achieve personal goals; education which will open doors of opportunity.

You should have equality of opportunity in em-

ployment, housing, community facilities and services. Your health and physical well-being ought to be as good as that of other Canadians. You are entitled to develop your cultural heritage in your own way.

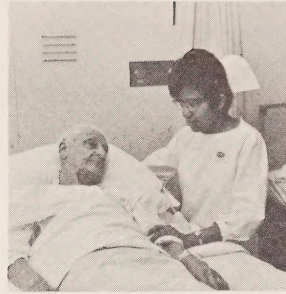
These goals will not be achieved simply through the passage of an Act of Parliament. They will require a massive effort on the part of the Indian people, of all the governments in Canada and of the Canadian community in general.

This massive effort will get great assistance from a recognition of the immense value and great potentiality of the Indian lands in Canada, especially those in southern regions. Many of these are close to, and some are within the great cities. By comparison, the people living on lands on the Canadian Shield or in the northern, remote parts of the provinces, where the reserves lack resources and communication, present the most challenging social and economic problems confronting our nation.

All Canadians must do their share. It is an obligation of the governments of Canada, the provinces and municipalities to do their part. The new spirit of the Indian community gives clear evidence that you are eager to do the things which you will have to do to achieve your goals.

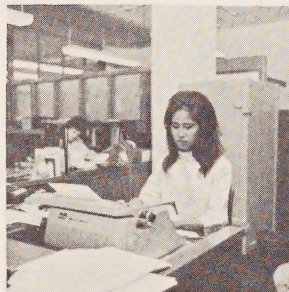
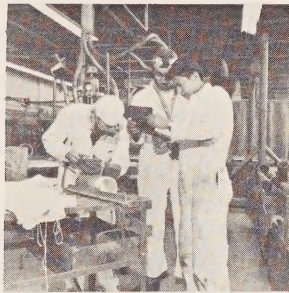
Laws alone provide only the framework for action. People, moved by the will to succeed, achieve their goals.


Arthur Laing.



Part 2

STATEMENT OF OBJECTIVES





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OBJECTIVES OF THE GOVERNMENT

A main objective of the government is that the Indian people shall have full equality of opportunity in society, in education, in employment and in health.

It will take a tremendous effort on the part of the Indian people to reach this goal. Help will be needed from the rest of the Canadian community and from the government. The government's role will have to be quite different from the part it used to play. At one time almost all of the Indian people's business was done for them by the government. People do not easily learn to manage their own affairs under such a system.

Today there are some Indian Bands who manage almost all of their Band's business. Many Bands are ready to undertake full management of their business and in the years ahead they, and many more, will do so.

While the old days are gone and new attitudes prevail, the new ways have not yet helped all the Indians to do things for themselves. There are some things the government may have to continue to do in the next few years, things which will eventually be done by the Indians themselves.

INDIAN CLAIMS COMMISSION

Before the Indian people consider the new Act, many of you will want to know about the Indian Claims Commission. There has been a delay because of some problems of the Indians of British Columbia.

Part of the job of the Commission will be to consider claims based on treaty obligations. If the claim is upheld, the Commission will have to decide what compensation the Indian people should receive, subject to funds being supplied by Parliament. The claims of the Indian people are separate from this Act.

EQUALITY WITH OTHER CANADIANS

SOCIAL EQUALITY

The United Nations has declared that all human beings possess basic rights from birth. *The Universal*

Declaration of Human Rights, which the United Nations adopted in 1948, states that everyone is entitled to these rights even if differences exist in "race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status."

The Canadian Bill of Rights makes it Canadian law that no one shall be treated differently because of "race, national origin, colour, religion or sex". Basic human rights belong to every person.

The Royal Commission on Bilingualism and Biculturalism says in its introduction to Book I of its report that "Individual equality means essentially, that everybody has the same access to the various benefits of a society without being hindered by his cultural identity," and the report goes on to say that "a person who engages in some activity or associates with some institution need not renounce his own culture, but can offer his services, act, show his presence, develop and be accepted with all his cultural traits".

The government believes that Indians want to support themselves and their families at a satisfactory level. Jobs and income are a necessity for this. The government believes that the Indian people accept their personal responsibility in this and that they want to be helped to make it possible.

Equality of opportunity means that housing and community conditions must be such that they will not hold people back from using the opportunities of Canadian life. Full equality of opportunity means that Indian people should be able to mingle freely with their fellow countrymen; that they should enjoy equal political freedom and privileges and should have the full benefit and responsibility of Canadian citizenship.

The Indians should have as much control of their own communities as others who live in communities of similar size and numbers.

To sum up: social equality means that the Indian people are accepted as individuals in their efforts to earn a living, in their social life and in the organization of their communities.

EDUCATIONAL EQUALITY

If the Indian young people are to have a true choice in the path their life is to follow, they must have an education which makes it possible for them to choose to develop their personal capabilities to the fullest extent.

Indian children must be given the opportunity to be as well educated as other people's children. Adequate education according to ability requires that schools be good, well equipped, and that teachers be well trained. The government believes that this is best achieved when the Indian children go to the same schools as other Canadian children.

In the new Act, the sections which deal with education are of great importance. There is more about schools on page 15.

ECONOMIC EQUALITY

Economic opportunities for Indian people may be found within their reserve communities and their own Band capabilities, or they may have to be searched out in other places, sometimes near the reserve, sometimes far away. Wherever the opportunities may be, the Indian people must have the chance to pursue those which suit them best.

If Indian people are trained and their skills are suitable, they should be able to get jobs. They should be given the chance to develop their skills and to apply them in the Canadian economy. They may need help so that they can take advantage of the opportunities available.

The resources of the reserve communities must be controlled and developed by the Indian people themselves. If they do not control these developments, they will not get the benefits they should. If they are to control them to get the best results, training in management skills will be needed.

If the Indian people are to become economically independent, they must have the opportunity to learn to operate many different kinds of businesses. Some of these will be operated as Band projects, some as co-operatives and some as individual undertakings.

However these endeavours are managed, money may have to be borrowed for them at some time.

The Indian people should be free to accept the responsibility of borrowing and repaying money in the same way that others do. Credit must be available to responsible groups and individuals.

Economic equality means that the Indian people should have the same chance to earn a living as everyone else does and that they should have open to them the same opportunities to do so as other Canadians.

POLITICAL EQUALITY

The government believes that the Indian people want the same rights and responsibilities as other Canadians have in political and community life. The Indians now have the right to vote in federal and most provincial elections. Some provincial governments are making it possible for Indians to be more active in school affairs. Extension of provincial services to Indian people and communities is a primary objective of the government. Some agreements are in effect now, others are being negotiated.

As the reserve communities develop, they should be able to provide more local services to Indian people. This will be the job of local government; sometimes Band government itself, sometimes municipal or regional authorities, and sometimes all or any of these. Development of good local government is part of political equality.

PRESERVING INDIAN VALUES

Indians have a right to live on their reserve and to develop their own community life if they wish to do so and the area will support them at an acceptable level. If they choose to move and live in the city or anywhere else in Canada, they should be able to take the special values of the Indian people with them.

Those who do not choose to move should be able to develop the resources of their community to get as high a standard of living as it can produce. Some reserve communities will not produce enough to give all the families who stay a satisfactory standard of living. The government cannot be expected to support such communities indefinitely. The Indian people in such places will have to be able to help

themselves in many different ways. In such communities, the Indian people will have to strive to maintain their ways while they are fitting into the larger community around them. Some will want to move to places where it is easier to earn a living. They, too, may want to maintain many of their ways and their outlooks. They should be able to do so if they choose. Sometimes they will have to choose between the conveniences and demands of modern life and some of their own traditional attitudes.

THE INDIAN CULTURAL HERITAGE

The Indian people have made a great contribution to Canadian culture. They should have the opportunity to preserve Indian arts, crafts, handiwork and legends. This cultural treasure should grow and develop as their role in the Canadian community expands.

No art ever stands still. Indian artists have said that they want to develop their artistic talents to express their culture, and at the same time they want their art to progress and evolve.

The great store of dancing, legends, rituals and folklore of the Indian people should be preserved not only for the Indian children of the future, but for the enrichment of the cultural heritage of Canada.

The Indian people should preserve and teach their children the stories of their ancestors, the legends, the tribal languages and ways. Indian children should grow up feeling proud that they are Indians. These things are part of the inheritance of the Indian people. Only the Indian people can keep them alive, though the government can help.

SELF-GOVERNMENT

For many years too much of the community business of the Indian people was done by others. However well meaning this assistance may have been, it has left some Indian Bands with the feeling that they are unable to manage their own affairs. It will take time before all Indian Bands can deal with all the difficulties facing them today. Even Bands which have managed much of their business themselves for many years are finding it more complicated now than it used to be.

The government wants to see the day when all Indian Bands will manage their own Band business, the day when the Indian people will be doing most of the things now being done by the Indian Affairs Department. The government's future role will be different from that of the past — indeed it is changing rapidly even now.

Some Bands are more ready to take over full responsibility than others. No Band should be forced to accept responsibilities it does not feel it can handle but all Bands ought to be encouraged to continue to develop forms of self-government suitable to their people.

For some Bands this will be easier than for others. The Act must provide for all. Some Bands will need help, while others are fully capable of managing all their own affairs. Some Bands do not have enough resources in their reserve communities to be able to make them self-sufficient. They do not have enough jobs and income available for all the people. Such Bands will need help but in most cases there will be many things they will be able to do for themselves.

The government believes that most of the Indian people want to manage more of their own business and some want to manage all of it. The Advisory Councils have proposed that the new Act should be such that each Band will be able to select the path it will follow and, having made its choice, will be able to take on its own affairs as experience and knowledge is gained.

THE FUTURE ROLE OF GOVERNMENT

There are some things which the government may always have to do. The lands reserved for Indians are held by the Government of Canada in trust for the Indian people. This being so, there may have to be a government department to act as trustee. Trusteeship does not mean that the government will decide what is to be done with the land, it simply means that it will hold the land for your children and your children's children as long as the Indian people want it that way.

As the Indian people take over the management of their land and their community affairs, the role of

the Indian Affairs Department will change. Its task will be to advise and assist Bands when asked to do so.

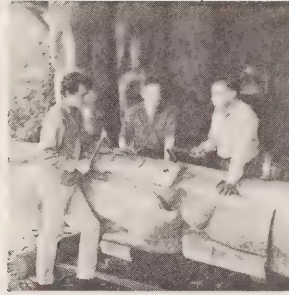
The Indian Affairs Department will become less involved in day to day business and will become one of a number of governmental offices where the Indian community leaders will be able to go for technical advice.

As the needs of the Indian people change, the Indian Affairs Department will change to accommodate them. It will be the trustee of the Indian people's land, of the provisions of the various treaties, and of the government's obligations.

PERSONAL AND COMMUNITY RESPONSIBILITY

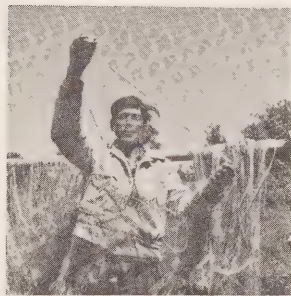
Many of the changes suggested for the Act will add to the personal responsibility of the Indian people. If these changes are made the Department will withdraw from some of the duties it has assumed in the past and the Indian people will gain more personal responsibility for their community affairs.

With every right goes a responsibility. As people take on more personal responsibility they find that they are exercising more of their rights. As the Indian people exercise the right to manage more of their affairs, they will assume more personal responsibilities.



Part 3

AN OUTLINE OF
THE PROPOSED ACT



THE INDIAN ACT

This part of your handbook refers to sections of the present Act and tells you some of the changes that have been suggested. They have come from talks with the National Indian Advisory Board, the Regional Advisory Councils and ideas and views put forward by the various Indian associations, Band Councils and individual Indians. Some of the suggestions have been made by the Department of Indian Affairs and some by other government departments. You are asked to read each one and tell your spokesman of the changes which you think would be good, which you think would be bad, and of any others which you think would make for a better Act.

Remember that the Act itself does not say what programs can be made available to Indians and Indian Bands; all it does is set some of the rules under which individual Indians, the Band Councils and the government itself must work on the things they do together on reserves.

The first sections of the present Act set out some basic points.

Section 1 simply gives the name of the Act. The present one is called the "Indian Act". It has been suggested that a new era in Indian life should be marked by a change in the name of the Act. What do you think? Your spokesman should be ready to tell us.

Section 2 gives a list of definitions. This spells out for the lawyers and judges the legal meaning of the different words used in the Act. In the new Act this will be done by the lawyers after the rest of the Act is written into legal language. Naturally the words cannot be defined until it is known what words will be used.

Section 3 says that the Minister is head of the Department. This does not mean that the Minister as a person is all-powerful. The Minister is the person responsible to Parliament, and through that body is responsible to all the people of Canada for the operation of the Department. He is also the person who is responsible and accountable for the money the Department spends.

The authority given to him is used only after he has received advice from Indians and those of his advisors who know about the particular thing he is asked to do. The present Act prevents the Minister from delegating much of his authority to more than two officials. Delegation makes it quicker and easier to get decisions. When this is done it allows other people to make some decisions which the Act says the Minister can make. It means that some things do not have to go through many hands and finally to the Minister's desk. The Band Council and the Agency Superintendent or regional officials could decide many more things between them if more could be delegated. Band Councils, administrators and field people make decisions about programs now without referring to Ottawa and the Minister, but matters dealt with in the Act as it is presently written cannot be delegated. Do you think it would be better if some of the Band Councils and field people could make more decisions under the Act?

Section 4 defines those persons to whom the Act applies. Paragraph (2) says that the government can exclude any Indian Band or Indian person from having the Act or any part of it apply to them. This has only been done on request of the Band or the Indian and it is now suggested that this consent *must* be given before anyone is excluded. Do you feel that the Indians concerned should have to agree before the government can apply this provision?

MEMBERSHIP AND WITHDRAWAL

Sections 5 to 17 deal with membership and registration of Indians. These sections define who is an Indian under the Act and set out the rules for registration. Further on in the Act, Sections 108 to 112 set up the rules for what has been called "enfranchisement," the act of withdrawing from Indian status.

CHILDREN OF UNMARRIED MOTHERS

It has been suggested that section 12 (1a) be taken out of the Act. If this were done it would mean that any child of an unmarried woman who is herself an Indian under the Act would

automatically be an Indian under the Act regardless of who the father might be.

Under provincial law such children acquire their rights through the mothers. Removal of section 12 (1a) would apply that principle to Indian children. At present an Indian child's Band membership and Indian status can be protested when the father is not an Indian under the Act. There are very few protests nowadays. With the suggested change, if the parents later marry, the child would take their status. If, on marriage they are both Indians under the Act, the child would be of Indian status. Where the father is not an Indian and they later marry, the child loses its Indian status.

INDIAN PEOPLE WHO MARRY NON-INDIANS

At present Indian women who marry non-Indians lose their Indian status and all rights in their Band. Indian men who marry non-Indians retain their status; wives in these cases become Indians under the Act.

There are a number of points of view about this. Some Indian people believe that a person's status should not change with marriage. Some believe that men and women should be treated alike. Others believe that the family is the foundation of society and the most important thing is that the whole family have the same status.

Some of our basic rights as individuals are spelled out in the United Nations Declaration of Human Rights; this calls for men and women to be treated alike as well as for persons of all races to be treated equally. In Article 1 this declaration says, "All human beings are born free and equal in dignity and rights." Article 16, subsection 3 of the same document says, "the family (is) the natural and fundamental group unit of society."

All this poses a problem for the Indian people. Should both Indian men and women who marry non-Indians be treated alike? Should the Indian partner in such a marriage retain Indian status? Should the family be a unit taking the man's status? Your spokesman should be ready to say what you think about this.

ADOPTED CHILDREN

The laws of most provinces say that an adopted child is regarded in every way as if he were the natural child of the adoptive parents. Adopted children have all the rights of other children under these laws. Of course there is no problem for Indian people who adopt a child who is already an Indian under the Act. But under the present Act if an Indian couple adopt a child who is not an Indian under the Act, the child may be the only member of the family without Indian status. In this way two children of the same family could be treated differently.

Should non-Indian children adopted by Indian families, have Indian status? Should Indian children adopted by non-Indians lose their Indian status?

LOSING STATUS BY BLOOD CONTENT

The present Act contains a clause (sub-paragraph (iv) of paragraph (a) of subsection (1) of section 12) which has the effect of compulsorily disqualifying certain persons on the basis of blood content. It is proposed to drop this clause which has not yet been used and has no sound basis for continued existence.

WITHDRAWAL FROM BAND MEMBERSHIP

Giving up Indian status has been called "enfranchisement" for many years. This word confuses people because it gets mixed up with the right to vote which is also called the "franchise". Now that all Indians vote in federal elections and in most provinces on the same basis as other Canadians, perhaps the term "enfranchisement" should be dropped. An Indian who is "enfranchised" and therefore has given up his Indian status under the Act, would be said to have "withdrawn from Indian status."

Your spokesman should be ready to tell us whether you agree with this idea or not.

It has also been suggested that the new Act should allow persons over twenty-one who live off reserves to withdraw voluntarily as individuals from Band membership. Married couples living together would make a joint application. Should married couples, where the husband or the wife, or both are under twenty-one years old be able to withdraw from Indian status?

It is suggested that married couples who wish to give up membership should be allowed to include all their children under sixteen years of age in the application to withdraw if the parents wanted to do so, or the parents could let the children stay as members of the Band if they wished. A child over 16 would not be included without his consent. At present there is no choice. Do you think the children should be allowed to remain in the Band if that is the wish of the parent?

At present a Band can give up its Indian status if a simple majority of the people vote for withdrawal. Many believe this is as it should be, others have suggested that it might be better if the law called for two-thirds of the people's approval before a Band can withdraw from the operation of the Act. Not many Bands have ended their Indian status this way. Your spokesman should be ready to say what you want the new law to say about this.

RESERVE LANDS

Sections 18 to 29 deal with reserve lands and the ownership of land in reserve communities.

At present Indian people do not own land outright in reserve communities. The land is held *for* the Band by the Crown. Individuals may have a right of possession, but the land itself is the property *of* the Band. Each parcel of land which the Band council has granted or allocated to individuals is presently registered in Ottawa.

It has been proposed that the following changes in the system should be made:

- (1) A register of Indian lands should be set up to record the details of each piece of land in a reserve and the individual rights and interests in it. All records should be kept in a way similar to the way land records are kept in the province in which the reserve land is situated. This might mean that in time the records of each piece of land in the reserve could be registered in the land registry office nearest to the reserve provided arrangements can be made to do so.
- (2) Individual Indians should be allowed to acquire specific rights to property within the reserve. The Band Council would be allowed

to set conditions when land is first allotted to Band members. If the conditions are met, the individual would then have clear rights to the piece of land within these conditions.

- (3) Individuals would not be allowed to sell their land to persons who are not Band members.
- (4) Individuals could not have their land taken away from them without compensation, but the Band Council would have the right to take land for such things as schools, roads, land development and other community use provided the individual using the land is compensated for it.
- (5) A person would have the right to go to court against another person or the Band Council if he thought he was not being treated fairly over property.

Your spokesman should be ready to tell us what you think about each of these suggestions.

SALE OF RESERVE LAND

It has been suggested that there should be *no* change in the procedure presently in use when reserve lands are being sold. Most of the Indian people already consulted feel that the Indian people do not want to sell their land, but would like to see it made easier to lease land to others for development and use. It is often difficult to get enough people to attend a meeting and vote on proposed leases and if you don't vote at all, it has the same effect as voting no. It is suggested that the present rules which apply to sales should remain unchanged. It is suggested that the rules about leasing be made more flexible.

Do you want to keep the present rules on the sale of reserve land? Should the rules about leasing land be changed? There is more about leasing on page 16.

INDIAN ESTATES (*PERSONAL PROPERTY, MONEY, HOMES AND LAND*)

Under the present Act the Minister has the authority of a court in dealing with the estates of Indians. He can exercise this authority whether the Indian whose estate is in question lived on or off the reserve. The Minister approves wills made by

Indians, appoints executors of wills and administrators of estates, and is responsible for seeing that the estates are distributed among the heirs.

There is a great deal of power vested in the Minister in dealing with Indian estates. It has been suggested that this should be changed so that the individual Indian would be able to deal with estates the same way as other people do under provincial laws. Such a change would mean that the families of Indian people who left property would be responsible for looking after it themselves and would have to do all the things provincial laws say must be done.

Of course Indian people leaving land which is in a reserve would have to leave it to another member of the Band but the sections on land ownership would make sure that this was done. The Department would still have to be able to settle estates involving land if the people concerned did not act, because it is necessary to keep track of reserve land.

Over the years the Department has administered the estates of many Indians. Do you believe that the Indian people should have the right to manage their own estates themselves?

CREDIT FOR INDIAN BUSINESSMEN

At present it is very difficult for Indian people to borrow money against the security of the things they own. This has held back many Indian people who have wanted to start businesses in the reserve communities or who wish to farm reserve land.

Section 88 of the present Act prevents creditors from taking Indian property on reserves if Indians fail to repay loans. It prevents an Indian farmer from using his tractor or his cattle as security for a loan so he can buy more equipment or more animals. This clause could be changed so that it only applies to real property — that is land and buildings — inside a reserve. Then all personal property except land and buildings would be available for Indian businessmen to pledge to lenders to get more credit. Do you think this would be a good idea?

It has been suggested that there ought to be some way for Indian people to borrow against the land they occupy within the reserves and against any

lease income or rentals they may be entitled to receive from reserve land. One way to do this would be to allow individual Indians to pledge their goods and their right of occupancy to the Band Council, who could in turn pledge it to the Minister.

Loans could then be arranged on the understanding that if they were not repaid, the land would be taken over by the Council and leased out until the amount loaned has been recovered. This way the land would never be lost to the Indian people, but could earn enough money to repay the debt. Do you think this would be a good idea?

Your spokesman should say whether you think lenders should be able to take personal property if loans are not repaid, whether the lender is the Band Council or anyone else. Lenders do not often accept a person's promise to repay without some guarantee.

SOCIAL SECURITY PROGRAMS AND PLANS

Under the Canada Pension Plan and the Quebec Pension Plan income is defined as being the income upon which a person pays income tax. An Indian person who makes all his income on the reserve pays no income tax and is therefore not covered by the Canada Pension Plan; if he lives in Quebec he is not covered by the Quebec Pension Plan. It would be necessary to change the law so the Indian people can make the necessary payments for these plans and be covered.

Do you think this should be done? It would have to apply to all Indian people earning money on reserves.

EDUCATION

Sections 113 to 122 make special provisions about education. There are attendance rules for Indian children which are not the same as the rules for other Canadian children. There are rules about schools which do not take account of the new system of having as many Indian children as possible attend provincial schools.

It has been suggested that these sections have outlived their usefulness. It has been suggested that the new Act should give the Minister authority

to make agreements with provincial governments or local school boards so that Indian children would go to the same schools as other children.

There are some places where this would be difficult, so it has been suggested that the Act should also give the Minister authority to operate schools in accordance with the provincial laws and customs in the province concerned. In provinces where there are no separate schools, the Minister would have authority to set up separate schools if necessary.

This would mean that school attendance laws for Indian children would be those of the provinces and wherever possible Indian children would go to community schools operated by the regular school authorities. Wherever this couldn't be done, the Department would operate schools as it does now. In provinces where there are no separate schools, the Department would set them up wherever the parents want them and there are enough children. The kindergarten program would continue.

Others have suggested that the provincial laws apply in all provinces and that separate schools would only be built in provinces where they are part of the school system.

There are two ways in which the law could be written:

- (1) The provincial laws to apply with special provision for continuing or setting up separate schools where there is no legal provision under provincial law for them now.
- (2) The provincial laws to apply exactly as they are now applied in each province.

Your spokesman should be ready to say whether either of these choices would be best for your children or if you have other views.

OTHER MATTERS

It has been suggested that all adult Band members should be able to vote on surrender proposals, whether or not they are living on the reserve.

Under the present Act the Minister has authority to order surveys and subdivisions of reserve land without having to get the approval of the Band Council. It has been suggested that this should be changed.

There is no need for this authority in the Department's hands. Should this section be removed and the authority be given to the Band Council?

Section 70 gives the Minister the right to operate farms on reserve lands. The Minister does not need this and it is not used. Community farms are now operated by Band Councils. Do you agree that this section should be withdrawn?

The present Act says that Indian people in the Prairie Provinces must get permission of the Agency Superintendent to sell grain, animals and other things from a reserve. The Government wants this cancelled. Do you agree that this provision is unnecessary?

Sections 105 and 106 permit the appointment of the Agency Superintendent as a Justice of the Peace. The Department no longer believes this to be a good idea, and proposes to remove these Sections. Do you agree?

LIQUOR

Sections 93 to 99 of the existing Act deal with the matter of liquor. Many Indians have said they want to be governed by the same laws as other Canadians are. The Minister has said several times he agrees with this view and he would like to see these sections removed completely from the Act. Unless many Indians have strong feelings about the need for special provisions of the Indian Act to deal with liquor, it is proposed to remove these sections. Your spokesman should be prepared to say what you think about this.

LEASING OF RESERVE LAND

There have been many suggestions that the regulations governing the leasing of Indian land should be changed. It has been suggested that Band Councils should be permitted to lease out land for periods up to five years on their own authority, without having to ask for approval either from the Band Members or the government.

It has also been suggested that the Minister should be allowed to lease out land for up to twenty-one years on the request of the Band Council. If these two things were allowed, the Minister would still have to have the approval of the Band members for leases of over twenty-one years.

Individual Indians holding land would be able to manage it themselves and lease it for up to twenty-one years subject to the Band Council's by-laws. Those Bands who do not wish to have the authority to lease reserve lands this way could have the Minister do it for them as at present.

The above suggestions would permit the Bands to develop expert knowledge in land management. There are some Bands where this knowledge is already fully developed. While no Band would be made to accept responsibility they did not feel they could properly discharge, all Bands would have the opportunity to develop full self-management. Do you agree with these suggestions?

BAND FUNDS

It has been suggested many times that the regulations about the use of Band capital funds should be broadened so that they can be used for grants, loans, guaranteeing loans and other uses of benefit to the Band when the Band Council decides that this is a good use for the money. If this were done, perhaps the Band Council should be allowed to use the revenue funds for loans and guarantees?

The law now says that all the capital funds should be held in trust by the Department. Should Councils be able to invest this money themselves, if they operate under the full Band management in the section on Band property.

These changes would enable Bands to be more flexible and to do many more things than can now be done. Is this what you want?

ELECTION OF BAND COUNCILS

In 1967 there were 162 Bands who selected their Council members by Band custom. It is suggested that before there is any change in the system from Band custom or any other system or indeed, any modification, a referendum should be held where a majority of those voting would have to be in favour before a change could be made.

Eligible voters would be those Indians who were registered members of the Band whether they live on the reserve or not and who had reached the age required in their own province for voting in provincial elections.

Those who run for office would have to be qualified voters, the same as now. Do you think the age of candidates for office should be the same as those called for under provincial law?

It has been suggested by many Indians that the law should be flexible about the minimum and maximum number of councillors for each Band. It has also been suggested that in addition to the present methods it should be possible to choose the chief and councillors from a single list of candidates.

This would mean that if a Band wished, it could have an election where the person who got the most votes would be the chief and a specified number of others would be councillors.

It has also been suggested that the term of office should be clearly set out so a Band could choose to have either a one, two or three year term for its chief and councillors. The terms for councillors could overlap so that all did not come up for re-election at one time. In this way there would always be someone with experience on the Council.

It has also been suggested that the new Act should continue to make provision for regulations about voting, nominations, secret ballot and all the other things that go into elections in other communities.

All these recommendations are intended to give Indian communities a choice which will suit each Band. Your spokesman should be ready to discuss your ideas about voting and elections in reserve communities.

LOCAL GOVERNMENT

There are over 550 Bands in Canada and most have Band Councils. There are many differences in community organization. Under the existing Indian Act bands may administer many different programs or community activities within their reserve if they so desire. Some Bands do so. Others do not. Some have been more active than others in administering their own affairs.

Many Band Councils have suggested that they would like more scope. Other bands have suggested that they would like to continue as they are now. Still others think it would be wise to start with a few programs and then do more things themselves

as they gain experience or acquire the necessary staff. A few would like to completely administer all of their affairs. The Minister would like the new Act to permit all of these things.

There would be advantages for many Indian communities if they were organized more nearly like non-Indian towns and other municipalities and were able to receive the benefits of "municipalities".

The Act should be flexible enough so that those Band Councils who wished to act in local government matters would be able to do most of the things done by the councils of non-Indian communities. For instance, town councils pass by-laws on a wide range of subjects and administer such things as police, water and sewer systems, roads, garbage collection, recreation and parks programs, community planning and street lighting. They obtain money for these purposes through local taxation, licensing, and grants from other governments and bodies.

They do not necessarily do all of these things by themselves. They administer them, but some programs are controlled by senior governments; some are done in conjunction with their neighbouring communities; some are done under contract with private companies or people; and for some they hire their own staff.

Indian Band Councils would not be obliged to do all of the things which the Act permitted. The Act would be set up so that they could do some or all of these things when they were ready to do so. Governments could help the Band Councils with grants, giving supervision and advice when needed. When a Band Council is ready to do so, the Act would permit them to exercise powers and be responsible in the same way as a non-Indian municipality under provincial laws. In all of these cases the reserve land would still be the Indians' land, as it is now.

How far each Band goes in controlling their local community activities would be up to the Band. The Act would make it possible for them to do these things if they wished. Do you think the Act

should enable Bands to manage their own community affairs to the degree that each Band wishes?

If provision was made for this, there would be another part of the Act which would allow the Government to make grants to Band Councils to help meet the cost of the local services. Responsibilities would go with these rights and Band Councils would have to use their powers for the benefit of all the people living within the reserve.

FULL MANAGEMENT OF BAND PROPERTY

In addition to community activities or local government some Bands have also suggested that they would like to be responsible for all of the Band's business. Under this system the Department would only act as a trustee for the land on behalf of this and future generations of Indians.

It follows that the Act should allow a Band to form a type of company to administer Band assets. When a Band adopted a company-like organization to manage all or part of its business affairs it would be able to do many things now being done by the Department.

This Band company would be separate from the local government organization. Each Band would be able to organize both, or either one or the other, according to its needs and desires. If a Band or Council decides to do these things they would then become responsible for the Band's business and for their actions on behalf of the Band. Because of the request of some Bands who are ready now for parts of these proposals the Government wants to give them this opportunity. Tell your spokesman whether you agree to Indian Bands assuming some or all of the management of their property and funds.

ECONOMIC DEVELOPMENT FUND

The government proposes to include in the new Act provision for a development fund which will make it easier for Indian Bands to find capital for worthwhile developments. The amount of the fund and the way in which it will be administered will be announced later in Parliament.

Let us have your views on this.



Part 4

AN ABSTRACT OF
THE QUESTIONS
RAISED IN PART 3



THE QUESTIONS



1. Should the name of the new Act be "The Indian Act" or would another name be better?
2. Should the Act permit delegation of authority so that Band Councils and field staff can make more decisions?
3. At present, persons or Bands can be excluded from the provisions of the Act without their consent. Should their consent be required?
4. Should the children of unmarried Indian mothers take their mother's status regardless of who the father might be?
5. Should an Indian woman marrying a non-Indian take the status of her husband? Should each retain their own status as it was before they married? Should a non-Indian woman who marries an Indian, gain Indian status?
6. Should non-Indian children adopted by Indian families have Indian status?
7. Should the term "enfranchisement" be dropped? Should an Indian be able to withdraw from Indian status by simply deciding that he wishes to do so?
8. Should married couples, where the husband or the wife, or both are under twenty-one years old be able to withdraw from Indian status?
9. When a family withdraws from Indian status, should their children lose their Indian status too? At what age should children be allowed to choose for themselves? Should children be allowed to retain their membership, if their parents have dropped theirs?
10. When a Band wishes to give up its status, should it require a two-thirds majority vote, or is a simple majority enough? Should a minority have the right to remain under the Act?
11. Page 14 gives a list of suggested changes in property ownership regulations for reserve property. Are they suitable suggestions for your Band?

12. Should the present rules about selling reserve land be kept, or changed?
13. Should Indians have the right and responsibility for dealing with their estates under provincial law?
14. Should Indians and the Band be able to pledge all property other than real estate as security for loans with the lender being able to seize the pledged property if the debt is not paid?
15. Should individual Indians be able to pledge their right of possession to land to their Band Council (or the government) as security for loans?
16. Should Indians be able to borrow from any source using their income from leased out property as security for the loan?
17. Should Indians whose income is earned on reserves and not taxed, contribute to the Canada Pension Plan, or if they live in Quebec, the Quebec Pension Plan?
18. Should provincial laws, with special provisions for separate schools where there is no legal provision for them now replace the present educational sections of the Act; or should provincial law with no special provisions replace them? Do you have other views about education?
19. Should all adult members of a Band whether or not they live on a reserve be allowed to vote on surrender proposals?
20. Do you agree that the Band Council, rather than the Minister should have the authority to order surveys and subdivisions undertaken?
21. Do you agree that the provisions giving the Minister authority to operate farms on reserve land should be repealed?
22. A section of the Act says that Indians in the Prairie Provinces must get permission from the Agency Superintendent before they can sell animals or produce off the reserve; do you agree that this section should be repealed?
23. Do you agree that the section giving authority to appoint the Agency Superintendent as Justice of the Peace should be repealed?

24. Do you agree that the sections on liquor should be repealed?
25. Should Band Councils be able to enter into short term leases on their own authority? How long a term?
26. Should the Minister at the request of the Band Council be able to enter into leases up to twenty-one years without a vote of the Band? Should a vote be required for longer term leases?
27. Should Band capital funds be used for making grants, loans and guarantee loans to individuals? Should revenue funds be used for such purposes? How wide should Band Council's powers over Band funds be?
28. The present practice is to take a Band vote before changing the local government system from Band custom or before making any other change; do you agree that this should be required by law?
29. Should the voting age be that for provincial elections?
30. Should candidates for Band Council have to meet the age requirements of provincial laws for municipal office?
31. Should it be possible for a Band to choose its chief and councillors from a single list of candidates, with the person getting the most votes becoming the chief and a number of others becoming councillors?
32. Should the length of Councillors' terms have a fixed time limit of one, two or three years as decided by the Band? Should councillors' terms overlap so that only part of the Council comes up for election at one time?
33. Should individual Bands be able to select the kind of local government which suits it so that each community can manage its own affairs to the degree that each Band wishes?
34. Should Bands who wish to do so be allowed to form Band business corporations to administer the business affairs of the reserve community?

